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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,210	07/11/2001	Masao Yamamoto	01-412	9975
28970	7590	10/18/2004	EXAMINER	
SHAW PITTMAN IP GROUP 1650 TYSONS BOULEVARD SUITE 1300 MCLEAN, VA 22102			FINEMAN, LEE A	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/903,210	YAMAMOTO, MASAO	
	Examiner	Art Unit	
	Lee Fineman	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06 August 2004.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 27-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 27-35 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 15 Oct 2003 & 6 Aug 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This Office Action is in response to an amendment filed 6 August 2004 in which claims 27-28 were amended, claims 29-35 were added and claim 16 was cancelled. Claims 27-35 are pending.

### *Drawings*

1. Replacement drawings for figs. 7-9 were received on 6 August 2004. These drawings are acceptable.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 27 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 27 and 28 include the limitations "wherein the light shield comprises polarization plates/liquid crystal plates for each of the image lights for the left and right eyes." It is unclear whether the polarization plates or liquid crystal plates are the same as the ones already detailed in independent claim 29 from which these claims depend or additional elements. Further if they are the same elements it is unclear how the liquid crystal plates can be in both the first housing and the second housing.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 27-33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mihalca et al., U.S. Patent No. 5,964,696 in view of Nakamura, U.S. Patent Application No. 2001/0012053 A1.

Mihalca et al. disclose a device for picking up a stereoscopic image (figs. 2, 4 and 4A) comprising one image pickup element (14) to which an image light for a left eye and an image light for a right eye are guided for picking up an image for the left eye and an image for the right eye which are used as a stereoscopic image and given an appropriate visual angle (column 3, lines 26-33); a light shield plate (20) having two openings (34, 36) defined therein so that one light that has passed through one of those two openings in said light shield plate becomes the image light for the left eye, and the other light that has passed through the other opening in said light shield plate becomes the image light for the right eye (column 1, lines 25-31 and column 4, line 64-column 5, line 1); two polarizing plates (54, 60), one being disposed on one of those openings of said light shield plate and the other being disposed on the other of those openings of said light shield plate (fig. 4), such that one image light that has passed through one of those polarizing plates is polarized into a polarized light and its vibration plane (58) is rotated at 90 degrees to a vibration plane (60) of image light that has passed through the other polarizing plate; a liquid crystal plate (48) to which the image light for the left eye and the image light for

the right eye are guided which alternately takes a non-rotation state where the image light that has been polarized into a polarized light by said polarizing light plate is allowed to pass without changing the orientation of its vibration plane and a rotation state where the image light that has been polarized into a polarized light by said polarizing plate is allowed to pass after its vibration plane has been rotated (figs. 4 and 4A, column 5, lines 25-34); and a selection polarizing plate (52) to which the image light for the left eye that has passed through the liquid crystal plate and the image light for the right eye that has passed through the liquid crystal plate are guided, said selection polarizing plate has the same direction of polarization (60) as that of one of those polarizing plates (56), wherein said image pickup element (14) alternately picks up the image light for the left eye (see 24, fig. 4) and the image light for the right eye (see 24, fig. 4A), wherein said liquid crystal plate (48) and said selection polarizing plate (52) are placed just in front of said image pickup element (14), said liquid crystal plate and said selection polarizing plate are packed together (fig. 4), and said light shield plate (20) is disposed in a top portion of the device (fig. 4); one objective lens system (within endoscope 12) that allows the image light for the left eye and the image light for the right eye to pass (column 4, lines 2-4), wherein said light shield plate is disposed in an optical path between said objective lens system and said image pickup element to shield the image light that has passed through said objective lens system (fig. 2); wherein the two openings are disposed eccentrically from the optical axis of said objective lens system by regular distances, respectively (column 4, line 64-column 5, line 10); and wherein said light shield plate is disposed in proximity to an image sided principle point of said objective lens system (column 3, line 65-column 4, line 63). Mihalca et al. disclose the claimed invention except for wherein said device comprises a first housing for holding said liquid crystal plate, said

selection polarizing plate and said image pickup element therein, and a second housing for holding said light shield plate therein, wherein said second housing is freely attached to and removable from said first housing and wherein said objective lens and said light shield plate are integrated with each other, said image pickup element, said liquid crystal plate and said selection polarizing plate are integrated together, and said image pickup element, said liquid crystal plate and said selection polarizing plate are separatable from said objective lens and said light shield plate. Nakamura teaches a device for picking up a stereoscopic image (figs. 4, 5A-G and 6) comprising one image pickup element (105), a light shield plate (123), and a liquid crystal plate/selection polarizing plate (124) wherein said device comprises a first housing (130, fig. 6) for holding said liquid crystal plate, said selection polarizing plate and said image pickup element therein, and a second housing (123) for holding said light shield plate therein, wherein said second housing is freely attached to and removable from said first housing (see abstract and fig. 6) and wherein said objective lens (119) and said light shield plate (123) are integrated with each other (fig. 5a), said image pickup element (105), said liquid crystal plate (148) and said selection polarizing plate (145b) are integrated together (fig. 5f), and said image pickup element, said liquid crystal plate and said selection polarizing plate are separatable from said objective lens and said light shield plate (page 5, section [0106]). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the light shield of Mihalca et al. be integrated with the objective lens system and have its own housing which is freely attached to and removable from said first housing as suggested by Nakamura to be able to quickly change aperture shapes and sizes while being appropriately aligned with the objective (see Nakamura,

figs. 5A-5E and 6). Further, in as much as claims 27-28 are able to be understood in light of the 35 U.S.C 112 rejection made above the rejection applies.

6. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mihalca et al. in view of Nakamura, as applied to claim 29 above and further in view of Lia, U.S. Patent No. 5,222,477.

Mihalca et al. in view of Nakamura, as applied to claim 29 above disclose the claimed invention except for wherein said objective lens system comprises one objective lens, and said light shield plate is disposed close to any surface of said objective lens. Lia teaches a device for picking up a stereoscopic image (figs. 2 and 4) comprising one image pickup element (22), one light shield plate (27), an objective lens system comprising one objective lens (25), and said light shield plate is disposed close to any surface of said objective lens (figs. 2 and 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device of Mihalca et al. in view of Nakamura have an objective lens system comprise one objective lens, and said light shield plate is disposed close to any surface of said objective lens as suggested by Lia to provide a more compact device with less parts for reduced cost.

*Response to Arguments*

7. Applicant's arguments with respect to claims 27-35 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Laf*

LAF

October 7, 2004

*Mark A. Robinson*  
MARK A. ROBINSON  
PRIMARY EXAMINER